

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GLENN H. OLAY,)	
)	
Plaintiff)	
)	
vs.)	
)	
MOTION CONTROL INDUSTRIES,)	
DIVISION OF CARLISLE)	Civil Action No. 04-266E
CORPORATION, RETIREMENT PLAN)	
FOR BARGAINING UNIT EMPLOYEES)	
OF MOTION CONTROL INDUSTRIES,)	
DIVISION OF CARLISLE)	
CORPORATION,)	
)	
Defendants)	

MOTION TO COMPEL DISCOVERY AND AMEND CASE MANAGEMENT ORDER

AND NOW COMES the Plaintiff, Glenn H. Olay, by and through his attorneys, Jubelirer, Pass & Intrieri, P.C., and hereby files this motion pursuant to Federal Rule of Civil Procedure 36, and avers as follows:

1. Plaintiff initiated this action by complaint filed September 17, 2004.
2. An initial Case Management Conference was held on June 23, 2005, and a Case Management Order was subsequently adopted.
3. On July 15, 2005, Plaintiff propounded five (5) written interrogatories on counsel for Defendants. A true and correct copy of the Plaintiff's interrogatories are attached hereto as Exhibit A.
4. On or about October 31, 2005, the undersigned spoke with counsel for the Defendants, Richard A. Lanzillo, about this outstanding discovery. Mr. Lanzillo indicated that the

Plaintiff's Interrogatories had been misplaced and asked the undersigned to fax him another copy, which the undersigned did that same day.

5. On November 30, 2005, the Court, on joint request of the parties, entered an Order modifying the Case Management Conference, establishing a discovery deadline of February 24, 2006, a summary judgment deadline of March 10, 2006, and a deadline for filing oppositions to summary judgment of March 30, 2006.

6. As of the filing of the instant Motion, Defendants have not answered or objected to the Plaintiff's five (5) Interrogatories, nor have Defendants filed a motion for a protective order, nor have Defendants offered any explanation for not answering the Interrogatories.

7. Under Rule 33 of Federal Rules of Civil Procedure, Plaintiff is permitted to propound written interrogatories on Defendants, and Defendants have thirty (30) days to answer or object. Defendants have done neither.

8. The requested discovery is pertinent and germane to the motion for summary judgment the Plaintiff intends to file.

9. The undersigned certifies that he made a good faith effort to resolve this discovery dispute prior to the filing of the instant motion.

WHEREFORE, the Plaintiff does hereby respectfully request that this Honorable Court grant the instant Motion, enter an Order compelling Defendants to answer Plaintiff's discovery on or before March 10, 2006, and extend the deadline for filing summary judgment motions to March 24, 2006 and the deadline for filing oppositions to summary judgment motions to April 7, 2006.

BY: /s/ Jason Mettley
Jason Mettley, Esquire
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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March 2006, a true and correct copy of Plaintiff's Motion to Compel Discovery and Amend Case Management Order, was served on counsel for the Defendants identified as follows and in the manner indicated:

Via electronic service through CM/ECF:

Richard A. Lanzillo, Esquire
Knox, McLaughlin, Gornall & Sennett
120 W. Tenth Street
Erie, PA 16501-1461
rlanzillo@kmgslaw.com

/s/ Jason Mettley